

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA

v.

ABHIJIT DAS, a.k.a. “Beej” Das

Defendant.

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Case No. 23-CR-10160-AK

DEFENDANT’S MOTION FOR A PRE-PLEA PRESENTENCE REPORT

The defendant through his counsel respectfully submits this motion seeking the Court to order the production of a Pre-Plea Presentence Report (“Pre-Plea PSR”) by the United States Probation Office. As reasons therefore, the defendant states that the preparation of a Pre-Plea PSR will assist him in deciding whether he will change his plea in this matter. Specifically, the Pre-Plea PSR will address issues that arise in the context of this unique situation in which the defendant faces two separate federal indictments, the indictment here charging multiple counts of wire fraud and the indictment set for sentencing on May 29, 2024 after the defendant was convicted following a jury trial of charges related to unlawful campaign finances.

Background

The indictment was returned on June 20, 2023 charging defendant Abhijit Das with ten counts of wire fraud, in violation of 18 U.S.C. § 1343. The indictment arises out of the defendant’s work as an attorney and alleged conduct that took place during his representation of a client and the management of escrow funds.

The defendant made his initial appearance on the indictment in the District of Massachusetts and was arraigned on July 11, 2021. The defendant is not in custody and has been released on pre-trial conditions.

The defendant was convicted on an unrelated campaign finance related crimes on October 13, 2023 following a trial before U.S. District Court Judge Richard G. Stearns, in *United States v. Das*, 20-CR-10200-RGS.

The sentencing in the matter of *United States v. Das*, 20-CR-10200-RGS, was recently continued to May 29, 2024, in part, to permit the parties to confer on the issue of a global resolution that would include joint sentencing recommendations to the Court.

The Request

The defendant requests that this Court order the preparation of a Pre-Plea PSR by the United States Probation Office. The Pre-Plea PSR will not require extensive resources from the Probation Office as the defendant has already been interviewed and a Presentence Report has been prepared in the matter set for sentencing on May 29, 2024, *United States v. Das*, 20-CR-10200-RGS. Indeed, the defendant's background and criminal history has already been prepared and documented.

The Basis

The defendant requests the benefit of a Pre-Plea PSR to accurately assess the applicable guideline sentencing range ("GSR") as determined by the Probation Office. There are issues concerning the impact of the defendant's recent conviction upon his criminal history. Perhaps most pertinent to the defendant is the analysis are the enhancements that the Government contends apply. For example, the calculation of the loss amount in the circumstances of this matter in which the defendant was the escrow agent handing funds that became the center of the business dispute over the ownership of the funds between two sophisticated businesses embroiled in a commercial business dispute. The determination of the applicable GSR will permit the defendant, in the unusual circumstances of the defendant facing sentencings in two distinct matters before two different judges, to have clarity thereby permitting him to make an informed decision regarding a plea.

Counsel for the Government, Assistant U.S. Attorney Neil J. Gallagher, Jr., opposes this motion.

By defendant's attorney,

s/ Glenn A. MacKinlay

Glenn A. MacKinlay

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Date: May 15, 2024

Certificate of Conference

Pursuant to Local Rule 7.1, I hereby certify that the parties conferred in good faith to attempt to resolve or narrow the issues presented by this motion. The Government in this matter opposes the relief requested herein.

s/ Glenn A. MacKinlay
Glenn A. MacKinlay

Certificate of Service

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

s/ Glenn A. MacKinlay
Glenn A. MacKinlay